

Senate File 331 - Introduced

SENATE FILE 331

BY HOGG

A BILL FOR

1 An Act relating to energy efficiency by providing income
2 tax credits, and including effective date and retroactive
3 applicability provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **422.11Y Green building tax credit.**

2 The taxes imposed under this division, less the credits
3 allowed under sections 422.12 and 422.12B, shall be reduced by
4 a green building tax credit under section 473B.4.

5 Sec. 2. Section 422.33, Code 2011, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. 29. The taxes imposed under this division
8 shall be reduced by a green building tax credit under section
9 473B.4.

10 Sec. 3. NEW SECTION. **473B.1 Definitions.**

11 As used in this chapter, unless the context otherwise
12 requires:

13 1. *a. "Allowable costs"* means amounts properly chargeable
14 to a capital account, other than for land, that are paid or
15 incurred on or after January 1, 2011, for all of the following:

16 (1) Construction or rehabilitation.

17 (2) Commissioning costs allocable to construction or
18 rehabilitation.

19 (3) Interest paid or incurred during the construction or
20 rehabilitation period.

21 (4) Architectural, engineering, and other professional fees
22 allocable to construction or rehabilitation.

23 (5) Closing costs for construction, rehabilitation, or
24 mortgage loans.

25 (6) Recording taxes and filing fees incurred with respect to
26 construction or rehabilitation.

27 (7) Finishes and furnishings consistent with rules adopted
28 by the department under this chapter for lighting, plumbing,
29 electrical wiring, and ventilation for construction or
30 rehabilitation.

31 *b. "Allowable costs"* does not include any of the following:

32 (1) The cost of telephone systems and computers other than
33 electrical wiring costs.

34 (2) Legal fees allocable to construction or rehabilitation.

35 (3) Site costs, including temporary electric wiring,

1 scaffolding, demolition costs, and fencing and security
2 facilities.

3 (4) Finishes or furnishings that are not consistent with
4 rules adopted by the department under this chapter.

5 2. "*Commissioning*" means the testing and fine-tuning of
6 heat, ventilating, and air-conditioning systems and other
7 systems to assure proper functioning and adherence to design
8 criteria.

9 3. "*Credit allowance year*" means the taxable year during
10 which the property, construction, completion, or rehabilitation
11 on which the credit allowed under this chapter is based is
12 originally placed in service.

13 4. "*Department*" means the department of economic
14 development.

15 5. "*Eligible building*" means a building located in this
16 state that is used exclusively for commercial or industrial
17 purposes, or is a residential multifamily building with at
18 least twelve dwelling units.

19 Sec. 4. NEW SECTION. 473B.2 Provisional green building
20 certificate.

21 1. A person may apply to the department for provisional
22 certification of eligibility for a green building tax credit by
23 submitting a completed application to the department containing
24 all of the following information:

25 a. Sufficient information to identify each building or space
26 as the department shall require.

27 b. Proof of the person's ownership or tenancy of the
28 building.

29 c. An itemization of estimated allowable costs with
30 supporting documentation.

31 d. Any other information the department may require.

32 2. If upon receipt of the completed application the
33 department finds that the applicant has shown that the
34 applicant is likely within a reasonable time to place in
35 service property which would warrant the allowance of a

1 credit under section 473B.4, the department shall issue a
2 provisional green building certificate. The provisional green
3 building certificate shall describe the property for which the
4 certificate was issued and shall contain an expiration date.
5 The certificate shall apply only to property placed in service
6 by such expiration date which may be extended at the discretion
7 of the department, in order to avoid unwarranted hardship.

8 3. A person whose application for a provisional green
9 building certificate is denied may file an appeal with the
10 department within sixty days from the date of denial pursuant
11 to the provisions of chapter 17A.

12 Sec. 5. NEW SECTION. 473B.3 Eligibility certificate.

13 1. For each taxable year for which a person claims a green
14 building tax credit under this chapter, the person shall obtain
15 from an architect or professional engineer licensed to practice
16 in this state an eligibility certificate.

17 2. The eligibility certificate shall consist of a
18 certification, under the seal of such architect or engineer,
19 that the building meets the minimum standards of the United
20 States green building council's leadership in energy and
21 environmental design rating system, or the United States green
22 building council's leadership in energy and environmental
23 design silver rating standard. The eligibility certification
24 shall be made in accordance with the standards and guidelines
25 adopted by rule by the department and in effect at the time
26 the property which is the basis for the credit was placed
27 in service. The eligibility certificate shall set forth the
28 specific findings upon which the certification was based.

29 3. The eligibility certificate shall include sufficient
30 information to identify each building or space, and such other
31 information as the department shall require.

32 4. The taxpayer shall file a copy of each eligibility
33 certificate with the department.

34 Sec. 6. NEW SECTION. 473B.4 Tax credits.

35 A green building tax credit shall consist of one of the

1 following:

2 1. For new construction of any building that meets
3 the minimum standards of the United States green building
4 council's leadership in energy and environmental design rating
5 system, a tax credit equal to five percent of the cost of
6 the construction, subject to a maximum credit of one million
7 dollars.

8 2. For new construction of any building that achieves the
9 United States green building council's leadership in energy and
10 environmental design silver rating standard, a tax credit equal
11 to ten percent of the cost of the construction, subject to a
12 maximum credit of two million dollars.

13 3. For rehabilitation of a building constructed and
14 placed in service prior to January 1, 2011, that meets
15 the minimum standards of the United States green building
16 council's leadership in energy and environmental design rating
17 system, a tax credit equal to ten percent of the cost of the
18 rehabilitation, subject to a maximum credit of one million
19 dollars.

20 4. For rehabilitation of a building constructed and placed
21 in service prior to January 1, 2011, that achieves the United
22 States green building council's leadership in energy and
23 environmental design silver rating standard, a tax credit equal
24 to twenty percent of the cost of the rehabilitation, subject to
25 a maximum credit of two million dollars.

26 5. The department of economic development, in consultation
27 with the department of public safety, the department of natural
28 resources, and the department of revenue, may adopt rules
29 authorizing the tax credits issued pursuant to subsections 1
30 through 4 for construction and rehabilitation that achieves
31 superior energy efficiency and environmental performance
32 comparable to the United States green building council's
33 leadership in energy and environmental design certification.

34 6. Any credit issued pursuant to subsections 1 through 4
35 in excess of tax liability for the credit allowance year is

1 refundable.

2 Sec. 7. NEW SECTION. **473B.5 Application for tax credit**
3 **certificate.**

4 1. To receive a green building tax credit described in
5 section 473B.4, a taxpayer shall file an application with the
6 department for a tax credit certificate. The application shall
7 contain all of the following:

8 *a.* All applicable provisional green building certificates.

9 *b.* All applicable eligibility certificates.

10 *c.* A certificate of occupancy if required.

11 *d.* Documentation supporting actual allowable costs incurred.

12 *e.* Any other information required by the department.

13 2. If upon receipt of a completed application, the
14 department finds that the person is qualified for a green
15 building tax credit, the department shall calculate the amount
16 of the tax credit for which the person is eligible and shall
17 issue a green building tax credit certificate to the person or
18 notify the person in writing of its refusal to do so. The tax
19 credit certificate may be applied against tax owed pursuant
20 to chapter 422, division II and division III, for the year in
21 which the property which is the basis for the credit was placed
22 in service.

23 3. The green building tax credit certificate shall state all
24 of the following:

25 *a.* The year for which the credit may be claimed and a
26 description of the property for which eligibility was granted.

27 *b.* The certificate's expiration date and applicability
28 only to property placed in service by such expiration date.
29 Such expiration date may be extended at the discretion of the
30 department, in order to avoid unwarranted hardship.

31 *c.* The maximum amount of the tax credit allowable.

32 4. The amount of each green building tax credit shall not
33 exceed the limit set forth in the provisional green building
34 certificate obtained pursuant to section 473B.2.

35 5. A person whose application for a green building tax

1 credit certificate is denied may file an appeal with the
2 department within sixty days from the date of denial pursuant
3 to the provisions of chapter 17A.

4 6. If the department has reason to believe that an
5 architect or professional engineer in making any eligibility
6 certification under this chapter engaged in professional
7 misconduct, the department may revoke a provisional green
8 building certificate or green building tax credit certificate
9 issued pursuant to this chapter and report the misconduct to
10 the appropriate professional board or commission.

11 Sec. 8. NEW SECTION. **473B.6 Successor owner or tenant.**

12 1. If a green building tax credit is allowed to a building
13 owner pursuant to this chapter with respect to property, and
14 such property or an interest therein is sold, the credit for
15 the period after the sale which would have been allowable under
16 this chapter to the prior owner had the property not been sold
17 shall be allowable to the new owner. A tax credit for the year
18 of sale shall be allocated between the parties on the basis
19 of the number of days during such year that the property or
20 interest was held by each.

21 2. If a tax credit is allowed to a tenant pursuant to
22 this chapter with respect to property, and if such tenancy is
23 terminated but such property remains in use in the building by
24 a successor tenant, the tax credit for the period after such
25 termination which would have been allowable under this chapter
26 to the prior tenant had the tenancy not been terminated shall
27 be allowable to the successor tenant. A tax credit for the
28 year of termination shall be allocated between the parties
29 on the basis of the number of days during such year that the
30 property was used by each.

31 3. Notwithstanding any other provision of law to the
32 contrary, in the case of allowance of a tax credit under
33 this section to a successor owner or tenant, as provided in
34 subsection 1 or 2, the department shall have the authority to
35 reveal to the successor owner or tenant any information, with

1 respect to the credit of the prior owner or tenant, which is
2 the basis for the denial in whole or in part of the credit
3 claimed by such successor owner or tenant.

4 Sec. 9. NEW SECTION. **473B.7 Reporting.**

5 On or before January 1, annually, the department shall
6 submit a written report to the director of the office of energy
7 independence, the governor, and the general assembly regarding
8 all of the following:

9 1. The number and value of provisional green building
10 certificates and green building tax credit certificates issued
11 under this chapter.

12 2. The amount of the green building tax credits redeemed.

13 3. The geographical distribution of the provisional
14 green building certificates and green building tax credit
15 certificates issued and redeemed.

16 4. Any other such available information the department may
17 deem meaningful and appropriate.

18 Sec. 10. **EFFECTIVE AND APPLICABILITY DATES.** This Act, being
19 deemed of immediate importance, takes effect upon enactment and
20 is retroactively applicable to tax years beginning on or after
21 January 1, 2011.

22 **EXPLANATION**

23 This bill provides for a tax credit on personal and corporate
24 income tax for the construction or rehabilitation of certain
25 buildings certified under specified building standards that
26 promote energy efficiency. Tax credits are available in an
27 amount equal to a percentage of the costs for the construction
28 or rehabilitation of commercial, industrial, or specified
29 residential multifamily buildings. An immediate effective date
30 and retroactive applicability provision is included relating to
31 application of the tax credits.

32 The bill provides that new construction of any building that
33 meets the minimum standards of the United States green building
34 council's leadership in energy and environmental design rating
35 system shall be eligible for a tax credit equal to five percent

1 of the cost of the construction, subject to a maximum credit
2 of \$1 million. For rehabilitation of a building constructed
3 and placed in service prior to January 1, 2011, that meets
4 the minimum standards of the United States green building
5 council's leadership in energy and environmental design rating
6 system, the bill authorizes a tax credit equal to 10 percent,
7 subject to a maximum credit of \$1 million. In the event a
8 newly constructed or rehabilitated building achieves the United
9 States green building council's leadership in energy and
10 environmental design silver rating standard, the bill doubles
11 these tax credit amounts and maximums. The bill permits the
12 department of economic development, in consultation with the
13 departments of public safety, natural resources, and revenue,
14 to adopt rules authorizing tax credits for construction and
15 rehabilitation that achieves superior energy efficiency and
16 environmental performance comparable to the United States green
17 building council's leadership in energy and environmental
18 design certification. The bill states that any credit issued
19 in excess of tax liability for the credit allowance year is
20 refundable.

21 The bill specifies procedures regarding obtaining a
22 provisional green building certificate and an eligibility
23 certificate, tax credit application procedures, and provisions
24 regarding allowance of a tax credit with regard to successor
25 owners or tenants. The bill directs the department of economic
26 development to submit a report by January 1 annually regarding
27 the number and value of tax credit certificates issued, the
28 amount redeemed, and their geographical distribution.

29 The bill takes effect upon enactment and applies
30 retroactively to January 1, 2011.